

# **EXHIBIT**

## **B-2**

2/8/2021 2:02 PM

Velva L. Price  
District Clerk  
Travis County  
D-1-GN-21-000612  
Ruben Tamez

CAUSE NO. D-1-GN-21-000612

MARIA DELGADO

*Plaintiff,*

v.

ECOLAB, INC., AND ITS DIVISIONS  
AND SUBSIDIARIES*Defendant.*§  
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IN THE 419TH JUDICIAL  
DISTRICT COURT  
OF TRAVIS COUNTY, TEXAS

**PLAINTIFF'S ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Maria Delgado, Plaintiff in the above-styled and numbered cause, and files this Original Petition, complaining of Ecolab Inc., and its Divisions and Subsidiaries, and in support thereof would respectfully show unto this Court as follows:

**A. Discovery Control Plan**

1. Plaintiff intends that discovery in this case will be conducted under Level 3 pursuant to Texas Rule of Civil Procedure 190.4.

**B. The Parties**

2. Maria Delgado ("Plaintiff"), is an individual residing in Travis County, Texas.

3. Defendant, Ecolab Inc., its divisions and subsidiaries ("Defendant"), is a foreign for-profit corporation, conducting business in the State of Texas, and may be served with process by serving its registered agent for service of process: C T Corporation System, 1299 Bryan St., Ste. 900, Dallas, Texas 75201-3136; **by Certified Mail from the Clerk of this Court which is hereby requested.**

### **C. Jurisdiction and Venue**

4. This Court has jurisdiction over the subject matter of this lawsuit because the amount in controversy exceeds the minimum jurisdictional requirements.

5. This Court has personal jurisdiction over Defendant because Defendant is registered and conducts business in the State of Texas.

6. Venue is proper in Travis County, Texas, because it is the county where Defendant's principal office is located, and also the county where the incident which forms the basis of this lawsuit occurred.

### **D. Statement Pursuant to Texas Rule of Civil Procedure 47(c)**

7. Pursuant to Texas Rule of Civil Procedure 47, Plaintiff states that she seeks monetary relief over \$250,000.00, but not more than \$1,000,000.00, and that the damages sought are within the jurisdictional limits of the Court.

### **E. Facts**

8. On or about February 9, 2019, Plaintiff was injured while working as a member of the maintenance staff at LaQuinta Inn located on South IH-35 in Austin, Travis County, Texas. Plaintiff's injury occurred because an employee of Defendant, acting in the course and scope of employment with Defendant, negligently placed a mattress, box spring and steel bedframe in an upright position in such a way that caused them to tip over and fall upon Plaintiff, striking her in the head and neck and resulting in severe and permanent injuries and damages to Plaintiff as set forth below.

### **F. Negligence**

9. Defendant owed Plaintiff the following common law duties, to:

(i) Exercise reasonable care to avoid a foreseeable risk of injury to others. *El Chico Corp. v. Poole*, 732 S.W.2d 306, 311 (Tex. 1987);

(ii) Prevent injury to others if it reasonably appears or should appear that in the exercise of their lawful rights others may be injured by a dangerous condition that was created by Defendant. *El Chico Corp. v. Poole*, 732 S.W.2d 306, 311 (Tex. 1987);

(iii) Use ordinary care in protecting others from peril when the peril is under the Defendant's control. *Abalos v. Oil Development Co. of Texas*, 526 S.W.2d 604, 608 (Amar. 1975), *aff'd*, 544 S.W.2d 627 (Tex. 1976);

(iv) Use ordinary care in supervising and training its employees. *Mackey v. UP Enterprises, Inc.*, 935 S.W.2d 446, 459 (1996, no writ).

10. Defendant breached its duty of care to Plaintiff when its employee negligently placed said mattress, box spring, and steel bedframe such that they tipped over and injured Plaintiff.

11. Said breach was the proximate cause of Plaintiff's injuries and damages.

#### **G. Respondeat Superior**

12. Plaintiff was injured by the negligence of Defendant's employees who negligently placed the mattress, box spring, and steel bed frame in such a way that they fell over upon Plaintiff.

13. Defendant's employees were acting in the course and scope of their employment with Defendant when their negligent actions injured Plaintiff.

14. Defendant is liable to Plaintiff for Plaintiff's damages caused by the negligent acts of Defendant's employees acting within the course and scope of their employment through the *Doctrine of Respondeat Superior*.

#### **H. Damages**

15. As a direct and proximate result of Defendant's actions, Plaintiff suffered serious injuries from which she continues to suffer great pain of body and mind; incurred and will continue to incur, expenses for medical attention and hospitalization; and Plaintiff will be permanently and significantly physically disfigured and impaired.

16. Plaintiff also suffered and will continue to suffer loss of income as a result of her inability to continue her employment, or otherwise procure similar employment, as a result of the physical injuries suffered by Plaintiff in the incident which forms the basis of this lawsuit.

#### **I. Jury Demand**

17. Plaintiffs demand a jury trial and have tendered the appropriate fee.

#### **J. Prayer for Relief**

WHEREFORE, PREMISES CONSIDERED, Plaintiff, Maria Delgado, hereby respectfully prays that Defendant be required to answer and appear, and that upon final trial of this matter Plaintiff be awarded judgment against Defendant for the following:

- a. Medical expenses in the past and in the future;
- b. Physical pain and suffering in the past and in the future;
- c. Mental anguish in the past and in the future;
- d. Physical impairment in the past and in the future;
- e. Physical Disfigurement in the past and in the future;
- f. Loss of enjoyment of life in the past and in the future;
- g. Damage to past and future earning capacity;
- h. Prejudgment and post-judgment interest at the maximum legal rate;
- i. Court costs;

- j. Such other and further relief, at law or in equity, to which Plaintiff may be justly entitled.

Respectfully submitted,

**LAW OFFICES OF RICHARD PERLA, P.C.**

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